COBBETT'S WEEKLY POLITICAL REGISTER.

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INFORMATIONS EX OFFICIO.

In the House of Commons, on the 28th of March, LORD FOLKESTONE made a motion for the producing to the House an account of all the INFORMATIONS of this sort, filed within the last ten years, the object of which motion was to show the danger of entrusting such a power in the hands of the Attorney General.——The debate upon this subject was greatly curtailed in the report given of it in the news-papers, from two causes, one was the precedence of the speeches about General Graham and the "glorious victory of Barrosa," and the other was what the reader will be at no loss to guess at, when he has read Lord Folkestone's *Reply*, without which the debate is quite incomplete, without which the cause of the press has not its due, and yet, the whole of which has been omitted by the daily papers, and, that too, from a motive which it will be unnecessary for me to describe, when the reader has gone through the Reply itself.——To hear some men talk, one would think, that the people of England had no interest in what was passing in England; that they ought to remain indifferent as to a power by which any one of them may, at any time, be harrassed and ruined and destroyed; that this is *no concern* of theirs, while they are to be all alive to the *liberties of the Spaniards*, while they are to work and strive, and eat the bread of carefulness, in order to furnish the means for carrying on a long war to deliver the Spaniards from the danger of being ruined at the pleasure of their rulers. What a beastly people must such men think us! I, for my part, wish the Spaniards to be free; but, I do not feel for all Spain, a millionth part so much as I do for the *poor of Spilsby*, who were about to be *imprisoned* and *flogged* by Act of Parliament, at the *discretion* of those who were to have been set over them. I feel infinitely more for these people than I do for the Spaniards and Portuguese; and, whatever others may think of it, I look upon SIR SAMUEL ROMILLY as having done more service to his country, in this single instance, than all our generals, in Spain and Portugal, have done since the beginning of the Turtle-Patriot war. It was curious enough, that the Bill for *flogging poor people in England* should be lying before the parliament in company with a Bill for granting money out of the taxes of that same England for the purpose of preserving or regaining the *freedom* of the Spaniards and Portuguese!——I shall, in this whole Register, barely have room for the insertion of the *Speech* of Lord Folkestone, the *Answer* of the ATTORNEY GENERAL, and Lord Folkestone's *Reply*; but, these I am resolved to insert *entire*, that the world may be in possession of both *charge* and *defence*; and, if the ATTORNEY GENERAL should complain, that his Lordship has TWO Speeches to *his* ONE, let the reader bear in mind, that this is the way, in which, *he* treats all the persons, whom he chooses to place under the hatches of an *ex officio Information*.——The space that I have would not admit of the insertion of SIR FRANCIS BURDETT's Speech, upon this occasion, which, from those who heard it, I understand to have been one of the finest speeches ever heard. It was, indeed, a rich subject. The *bare facts* of it, well stated, are quite sufficient to harrow up the soul of any man but a lawyer. I could not, however, insert this speech without inserting that of Mr. Stephen (Wilberforce's brother-in-law,) and that of Mr. Lockart. If I should hereafter find room to insert them *all*, I will; but, lest I should not, I here insert the speeches of the *accuser* and the *defender*.——As to *observations of my own* upon the Attorney General's (Sir Vicary Gibbs) defence, I have *too many* to make, to at-

tempt even a *beginning* of them here. Lord Folkestone's Speech is reported pretty fully; but, there are many things, which, in a speech, could not be brought out with sufficient *fulness*. These it is *my* intention to supply, in future articles upon the subject; which, before I wholly quit it, I will make so plain that foreigners, even Dutchmen, shall clearly understand what is meant by ENGLISH LIBERTY OF THE PRESS. It is time that this thing should be properly understood. It is time, that the works of PALEY and DE LOLME should be stript of their powers of deception. It is time that the readers of such writers as GENTZ should have their eyes opened. Every nation and every government, as well as every individual, should be known for WHAT THEY ARE. Where they are not so known, it is a meritorious act to make them so known.——They tell us, that *Informations Ex-Officio* and our *Libel law* are good things. Very well, then, it can do no harm to *make them well known to the world*; and well known they shall be made, before I have done with them. It is, at any rate, no *libel* to *describe* these good things; just to explain *what they are*; just to enable the world to form a correct opinion of these inestimable blessings. Unless, indeed, it be argued, that, being so very good, we ought, by all means, *to keep them to ourselves*. This argument shall, however, have no weight with me. I have got hold of this power of the Attorney General, and, thanks to Lord FOLKESTONE, have now got the Attorney General's *defence* of his powers and his actions. Having these before me, I shall proceed to discuss, as occasion offers, both the one and the other, till the whole world is made thoroughly acquainted with both. As to GIBBS himself, or even his actions, they are objects of minor importance. What I wish to do, is, to make the thing called the LIBERTY OF THE PRESS IN ENGLAND; to make this thing notorious. To place it in its true light in the eyes of the people of England, and the people of *other nations* too. This is what I will do before I quit it. And, the world shall see, too, what a power this is, which the parliament has now refused to investigate. ——Justice to *the rest of the world*, as well as to the people of England, demands this. Other nations should know what sort of a thing English freedom *really is*, at bottom, according to what is called, "the "*practice of the constitution*."——I have subjoined to the report of the Speeches the list of the members, who voted for Lord Folkestone's motion. This list has *not* been published in the Morning Chronicle. Oh! what poor, what pitiful motives are men actuated by! What a miserable thing is this! Will this paper attempt, after this, to persuade the public, that it is animated by any thing but a mere party view; that it has any feeling at all for the *press* or for the *people*?——What! MR. PERRY saw the names of none of the place-hunters of the OUTS in this list? He saw no *Ponsonby*, or *Tierney*, or *Temple*, or *Calcraft*, or *Adam*, in this list? He had heard of their *walking away*, perhaps. This list would not have suited the views of his set. Mr. SHERIDAN, too, though he had just been there blazing away about the "victory of Barrosa," did not stay to give his vote against EX-OFFICIO INFORMATIONS. Never was I better pleased than to perceive this. It was as it should be exactly. Those voted that I wished to see vote, and those went and kept away, whom I wished to see go and keep away.

WM. COBBETT.

State Prison, Newgate, Tuesday, April 2, 1811.

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of this Work, comprising the Period from the Accession of GEO. I. 1714, to the opening of the Sixth Parliament of Great Britain in Oct. 1722,—is now ready for delivery.

INFORMATIONS EX-OFFICIO.

Speech of Lord Viscount Folkestone, in the House of Commons, on the 28th of March, 1811, upon moving for An Account of *Informations filed ex-officio* by the Attorney General; also the Answer of the Attorney General (Sir Vicary Gibbs), and the Reply of Lord Viscount Folkestone.

Lord Folkestone rose and spoke as follows: I rise, Sir, in consequence of the notice I gave, to move for "An Account of all Informations filed *ex officio* by the Attorney General, for Libel, from the 1st of January 1801 to the present time; specifying the time when the said Informations were respectively filed, and the proceedings had thereon." In calling the attention of the House to this subject, I must observe, that in my opinion, it is the bounden duty of the Law Officers of the Crown to give their ready assent to the production of these papers, for the purpose of shewing distinctly to the House, whether the privilege of filing these Informations has or has not been abused. Had this been the case, there would not have existed any necessity for me to enter at any great length into the subject; but as I am given to understand that an opposition to my motion is intended, I shall proceed to state the reasons which have induced me to bring it forward. The extraordinary increase in the number of criminal Informations for Libel, during the last few years, is the principal ground of my troubling the House upon the present occasion. That these Informations have been much more numerous since the Learned Gentleman, over the way, came into office, than they were at any equal period at any former time, is a fact that cannot be contradicted. Upon referring to those sources which are open to every one, I find that in the course of the thirty years ending with the year 1791, there had been seventy such prosecutions instituted. Of those from 1791 to 1800, I have not obtained any account. From 1801 to 1806 there were fourteen such prosecutions; in 1807 there was only one: whereas, in the years 1808, 1809, and 1810, during all which period the present Attorney General has been in office, there have been no less than forty-two Informations filed; the yearly average of Informations in the former periods being two; in the latter fourteen. (Hear! hear!) This increase some persons may endeavour to account for by the great increase of publications daily sent forth. To such an opinion I cannot subscribe, and I must, therefore, account for it on different grounds. The very fact that so vast an increase has taken place of late, is, in my mind, a full and sufficient reason to induce the House to vote for the production of these Papers. That increase must have arisen from one of two causes—either from a desire, greater than ordinary, on the part of the public press, to offend against the law; or from an eagerness of disposition, on the part of the present Attorney General, to commence such prosecutions. If the former be the fact, the House will do well to consider what the circumstances are that render the people thus discontented. For my own part, I think that those Papers against which prosecutions have been instituted, have been unfairly treated, when it is asserted that those concerned with them are desirous of giving publicity to principles which are dangerous to the welfare of the country—principles the offspring of their own minds, and calculated to pervert the sentiments of the people. Now, Sir, it evidently appears from the proceedings against the Editor of the *Day* newspaper, that it is rather the wish of the proprietors of Public Prints to *follow* than to *lead*. From that prosecution it was evident, that certain subjects had been introduced merely for the purpose of catching public opinion, and thereby increasing the sale of the paper. If an inclination, favourable to the propagation of such feelings does exist among the people, it becomes the duty of this House to investigate the cause of the discontent; for it is the general bent of the human mind, unless oppressed by great injuries, to remain contented with its situation; and nothing but real and serious injury can raise at once the cry of a whole country. It is, therefore, an object well worthy the attention of Parliament to inquire what are the in-

creased grievances under which the people labour, and that render palatable publications that awaken afterwards the vengeance of the law. If, on the other hand, the increase of Criminal Informations has been occasioned by an over anxiety to prosecute, it will then be proper for the House to call upon the Attorney General to shew, under his responsibility, on what principle it is, that *ex officio* Informations have been so frequently resorted to. The fact, that prosecutions of this sort have increased exceedingly and alarmingly under the present Attorney General, cannot be denied; and upon this simple fact, I would willingly have rested my case; but as I am given to understand, that the grant of these papers is intended to be refused, it becomes my duty to enter somewhat into detail. If it appears that there is really a greater desire to prosecute than heretofore, then I call upon the House to consider the great and extensive power given to the Attorney General by the privilege of filing Informations *ex officio*. Although that privilege may have been extremely proper, and comparatively harmless, at a period when the Press was circumscribed and confined to a very few persons, yet now, when it is spread throughout the country, when it is become the great organ of public feeling, when every thing is said and done, and felt and thought through the Press—to give his Majesty's Attorney General the power of binding it down, is to give him the most important, and the most likely to be abused power, that can be found in the community. Those Gentlemen who have not maturely considered the subject, cannot be aware of the immensity of power, which, under the existing state of the law, is placed in the hands of the Attorney General, by which he is enabled to vex and to harrass those against whom he is disposed to file his *ex officio* Informations. In all other cases where an individual has to contend with the Crown, he is fortified by the rules and forms of the law, which rules and forms serve as a bar against oppression. In cases of High Treason—cases of the highest importance to the state—a still greater degree of protection is allowed than in any other. Not that the life of the Sovereign should not be fully protected by the law; but, as it appears to me, that the law contemplated the disadvantage under which an individual laboured, when contending alone against all the power of the Crown—a pigmy opposing the strength of a giant. And therefore the law has fenced the weaker party round with those forms which serve as a protection against the might of his opponent, in the manner as the forms of this House were devised as the bulwark of a minority, against the influence of an overweening and overwhelming majority. But in cases of Libel, the accused has to contend with the same power, in a more formidable shape, and without those advantages which are enjoyed in other cases. The reason is this:—a prosecution for High Treason attracts universal attention, catches the watchfulness of the public eye; and the shield of this awakened and vigilant spirit is thrown over the accused. But in cases of Libel, where the crime is comparatively so small, and where the punishment of death cannot be inflicted, the public does not watch all the circumstances with that interest which the former case excites. And thus the individual prosecuted for Libel, is deprived of that vigilance of the public eye which, were he tried for his life, would attend and support him; and therefore he has to contend with all the power of the Crown, in a much more formidable shape than the person accused of the crime of High Treason. —But this is not the extent of the evil. The Attorney General has it in his power to file his Informations against whomsoever he pleases. He may go into court, and, on his mere *ipse dixit*, an accusation must be received. In all other cases justice is provided for in the outset. When a bill is found by a Grand Jury, the accused is protected by the oaths of the Jury and of the Witnesses, and unless the Jury are of one mind, the accusation is dismissed. But, in cases of Criminal Information, no oath is necessary; the Attorney General may at once file his Information, and the Defendant stands charged with the offence.—And here, Sir, there is one point that ought not to be overlooked. It ought not to be forgotten that the Attorney General has a personal interest in these prosecutions, in consequence of the fees which he receives. I respect the situation of the learned Gentleman too much to impute to him so sordid a motive. I cannot bring myself to suppose that the fees have had any influence in the late extraordinary increase of these prosecutions; but argu-

ing generally on the privilege, it must be apparent that an Attorney General may file Informations against every person he thinks fit, and that so far he is interested. I will not ascribe such a principle of action to the learned gentleman opposite, nor to any man who could lay the slightest claim to elevation of mind or dignity of feeling. I am willing to believe, that when he filed these *ex-officio* Informations, he was not actuated by any fondness for "*base lucre*" (a laugh). It is always unjust and ungenerous to fix such a motive upon any man, and in this I am sure the learned gentleman will be ready to coincide with me.—Sir, there is another most important consideration. The Information being filed, there is no limitation as to the time when proceedings shall be commenced. In cases of High Treason, the time is limited to three years. If the prosecution is not instituted within three years and a day, it falls to the ground. The mode pursued, with respect to Informations, is peculiarly hard, because the whole criminality is confined to the publicity of the Libel at the time of its publication. Now, Sir, it is very possible, that a treasonable plot may be kept secret for three years; but, if it is not discovered during that period, and should afterwards be brought to light, the parties implicated cannot be punished. But not so as to the time of filing these Informations. Against the Attorney General there is no limitation: by virtue of his extraordinary privilege, an offence of three, ten, or twenty years standing may be thus visited: for by the 39th of the King, which compels both printers and publishers to give in their names to the Stamp Office, all the evidence is furnished by the parties against themselves.—And, Sir, as, on the one hand, there is no limitation of the time in which an Information shall be filed; so, on the other, there is no limitation as to the period when the facts shall be brought to trial. The Attorney General may come into court, and put it off whenever he pleases. I believe there is a process by which the accused may force the court to entertain the question; but, unfortunately, it has been the custom for nearly one hundred years to try such Informations before a Special Jury. The full number of these gentlemen very rarely attend, and as the King alone has in these cases a right to pray a *tales*, the Defendant not having this advantage, and the number of Special Jurymen being then deficient, it is evidently in the power of the Attorney General to postpone the proceedings (Hear, hear!)—With respect, Sir, to Special Juries themselves, I conceive them to be a very great grievance. I will not enter upon the subject at present, because, on a future day, it is my intention to submit to the House a specific motion upon the subject. I will merely observe, that, in cases of libel, it is peculiarly hard, that the Defendant should be tried before a Special Jury. The individuals composing it, are generally selected by an Officer of the Crown, and, in point of fact, most of them are persons connected with the Government Offices, and are therefore liable to an undue influence—and this is a great source of complaint in those who may happen to be tried by them. The act under which they were appointed, is, according to my ideas, totally violated: and in this opinion I am confirmed by a perusal of a publication which has excited much interest, written by Sir Richard Phillips, a gentleman, who lately served the Office of Sheriff for London and Middlesex; and to whom a number of applications were made by individuals who wished to be put upon the Freeholders List. This desire was a proof that the emoluments derived from the office were a considerable inducement; and it is fair to presume, that they would not willingly offend by any great want of pliancy when once possessed of the object of their desire. But the impropriety of introducing Special Juries is distinctly marked by statute: the law is jealous of them, and allows them no cognizance of causes affecting life or limb. The Liberty of the Subject is, Sir, no less valuable; and in some recent instances, the punishment which follows the verdict of these Special Jurymen falls very little short of affecting the life, as well as the liberty, of the person convicted. But, Sir, the grievance does not terminate here: for when a Defendant is brought up for trial, it has been ruled, that he shall not alledge the truth in justification of the supposed offence. That, Sir, is the modern law. In late years it has been determined by the Judges that truth is a libel; and I am willing to bear my testimony that the doctrine has been scrupulously acted upon. And yet I could cite some of the best and most learned authorities, within the last hundred years, who held the direct contrary; and the whole doctrine as it at present stands is absolutely contrary to common sense.

The first law relative to slander was enacted in the reign of Edward the first. But the provisions of that act went expressly to punish tales which were founded in falsehood. And the act of Scandalum Magnatum passed in the reign of Richard the second proceeded upon the same principle. That act was renewed in the reign of Philip and Mary; but still the falsehood of an assertion was necessary to be proved under the act. Even at a later period the same principle prevailed. And in the case of the Seven Bishops, Mr. Justice Powell stated it as his opinion, that in order to constitute the libel, falsehood was necessary. The *dictum* of Lord Chief Justice Holt was of a similar nature. And therefore, I must observe that, although it has latterly grown into a principle, that falsehood is not necessary to constitute a libel, yet, according to the enactments of former days, the case was different. And when Mr. Fox's Libel Bill was carried into the House of Peers, the Judges, when questioned upon the subject, gave a similar opinion.—Sir; another very great hardship in trials for Libel, is, that the Attorney, whether the Defendant adduces evidence or not, assumes a right to reply. I know not whether this is customary in cases of Information filed in the Court of Exchequer, but I am sure it is not regular in courts of *Nisi Prius*. By this means the Attorney General has a very great advantage. In his opening Speech he may only charge one half of the offence, and, when he comes to reply he may introduce new matter, and thereby influence the verdict in a manner the most fatal to the accused, while there is no power given of answering the charge.—These, Sir, are the hardships sustained by the accused, before and at his trial; and great as these hardships are, they are rendered still more so by the uncertainty of the Law of Libel. The Judges not only differ from each other in the interpretation of the law; but the same Judge differs from himself at different times. The doctrine laid down by Lord Chief Justice Mansfield, in the trial of Mr. Horne in 1777, at Guildhall, and that subsequently promulgated by Mr. Justice Buller, placed the evil in a strong point of view. In the former, Lord Mansfield left the alternative of guilty or not guilty on the whole case, to the Jury in the usual way. In the latter, Judge Buller directed the Jury merely to fill up the inuendoes. Parliament felt the necessity of interfering, and the 32nd of the King was in consequence enacted, by which the Jury were made judges of the law as well as of the fact: the Judge, however, as in all other cases, was to state his opinion of the law. I do not conceive, however, that the spirit of that Act has been complied with by the Judges; for, in some cases, they have delivered their opinion in such a manner as almost forced it upon the Jury. I wish to speak with all due respect of persons high in judicial office; but as a proof of my assertion, that the self same Judge, has, at different times, delivered opinions totally dissimilar, I must observe, that my lord Ellenborough, on the Trial of Mr. Cobbett, for a Libel contained in some letters relative to Irish Affairs, stated, "that when the feelings of "any person began to be wounded, then "the Libel commenced." But in the Case of Carr and Hood, the same Judge said, "that a writer's failings might be "criticised, and that in matters of literature "it was for the benefit of the public that "the works of an author should be fully "exposed." Now, Sir, I cannot see why the feelings of an author should be held less sacred than those of any other person; or why those of a statesman should be particularly spared. On the contrary, the character of the latter is of that description, which, more than any other, calls for exposure, if any impropriety is committed. The measures of a public man, if bad, ought, above any thing else, to undergo the lash of public censure: and if those measures are good, they have no reason to apprehend any serious reproach, seeing that the writers in their own interest, are always ready to come forward with panegyrics upon their great talents and merit.—In the eye of the law, a Libel, Sir, is only a Misdemeanour, punishable with fine, imprisonment, and the pillory. But, in late instances, it has been visited with a severity, which seems to indicate a desire of depriving the offender of the very means of subsistence. Those who are most likely to fall under the lash of the law, are principally persons connected with the Public Press of the Metropolis. But now, in cases of conviction, they are not allowed to remain in London, but are hurried off to distant jails. Two individuals, Mr. White and Mr. Hart, the Proprietor and Publisher of the Independent Whig, were sentenced to three years imprisonment. Perhaps this punishment alone was too much: but to render it still more severe, they were removed to coun-

try jails, at a distance from their friends and connections. The length of the confinement appears to me an outrageous punishment; but it is greatly aggravated by the circumstance of the mischief and ruin which the distance of the jail must inevitably bring upon their very means of subsistence. The law gave the right to punish, but not to ruin. And those who passed such a sentence must have been aware that ruin, and almost unavoidable ruin, must follow its execution.—There was another person, Mr. Gale Jones, whose principal support was derived, I believe, from some daily or weekly publication—that person has been sent to a prison, where, by its regulations, he is deprived of the use of books, ink, or paper.—And if this statement is correct, is he not thereby deprived of the means of subsistence? A more recent case is that of Mr. Finnerty: and there are several others to which, if necessary, I could call the attention of the House. But, when the term of imprisonment has expired, the sentence generally directs, that the party shall find security for his good behaviour, probably in a large sum, and for a number of years. Now, as it is often difficult to procure such security, it has the appearance of a desire to imprison for life.—Now, Sir, it will be worth while to compare the punishments for Libel with those for other offences. With this view I have procured a report of the trials at the last Old Bailey sessions, and I there find that twelve persons, who were convicted of various felonies, have been sentenced, some to three months, some to two months, and others to only one month's imprisonment. Mr. Alexander Davison, who was convicted of a very great offence, in misapplying the public money, was sentenced only to twenty-one months. And a man who was lately convicted at the Winchester assizes of a most aggravated assault with intent to commit a rape, and to whom the Judge observed, that had he been capitally indicted, he certainly would have been hung—this man was sentenced to no more than two years imprisonment. He did not receive so much punishment as the man whose only crime was the writing an article, which might be offensive to the Attorney General and the Government of the day.—But, Sir, it may be said that the injured party may redress himself, by bringing a Writ of Error into the House of Lords. But that is really nothing, as it is possible that he might wait a long time before he had his appeal decided. And, in the course of nine or ten years after the termination of his imprisonment, it would afford him very little consolation to be told, that the House of Lords had reversed his Judgment! (Hear! hear!) The House should watch with extreme jealousy in what manner the privilege of filing these Informations has been exercised. There have not been less than 42 of these Informations filed in the course of the last three years, comprising upwards of seventy persons. And therefore, supposing no alteration had taken place in the law, the House would do its duty in calling for these Papers. But the law has not remained the same—it has undergone a woful change for those who may happen to fall under the displeasure of the Attorney General. It is not the same law now, that it was two years ago. About that time the Learned Gentleman brought in a Bill to extend the rules observed in misdemeanors against the Revenue Laws to cases of Libel. I take shame to myself for my inattention to this Bill. It passed this House *sub silentio*, and, I believe, without having been ever printed. But in the House of Lords two noblemen exerted themselves against it, but I am sorry to say, unsuccessfully. The Bill was introduced as a mere matter of convenience—as a rule found advantageous in practice—a mere improvement on an Act of the 26th of the King, by which persons resisting the Revenue officers were ordered to find bail, or in default, to be liable to be committed. The offences against the Revenue were serious, and required coercion. But the Attorney General brought in this Bill, whereby the practice was extended to all offences which he might think deserving of prosecution: and thus the liberty of the subject is put completely in the hands of the Attorney General, and every man holds his freedom at the will and pleasure of the Learned Gentleman opposite: who, if he should happen to be displeased with a person's looks, or even his very dress, has only to confine him by virtue of one of his Informations *ex-officio*. (Hear! hear!) I do not mean to say that the Learned Gentleman has made any improper use of this power; but it is very evident that an unfair use may be made of it. This act was introduced for the purpose of ameliorating the law. If it has not been acted upon, it ought to be repealed as useless. But if it has been acted upon, and if the

number of offences have increased under it, then it ought to be repealed as pernicious. In my opinion, this great power has been abusively and partially exercised. I will not say, Sir, that the whole ground of these Informations is false and illegal; but when I find such men as Mr. Burke and Mr. Dunning asserting that they were so, and dividing the House of Commons upon the question, and when I find a minority of 78 Members of this House coinciding in the opinion, I am not prepared to say, that what they pronounced not to be law, is law.—The noble lord then examined some of the arguments in favour of the antiquity of the law, and contended, that from the obscurity of the cases, and their slight reference to the question, they could add nothing to its authority. The *obiter dictum* of Lord Hale, to which, perhaps, an objection might be made, was certainly against the legality of the privilege. The noble lord then adverted to the Argument of Sir Bartholomew Shower. In that Argument were contained the Cases of the two Members who were prosecuted for making seditious Speeches in the House of Commons. But, I contend, (said the Noble Lord) that their not having pleaded the illegality of the Information arose from their high feelings which prevented them from acknowledging the jurisdiction of the Court, which was their great plea—and not from any recognition of the legality of the measure.—Mr. Justice Blackstone, on this point, says, "The informations, that "are exhibited in the name of the King "alone, are of two kinds: first, those "which are truly and properly his own "suits, and filed *ex officio* by his own im- "mediate officer the attorney general; se- "condly, those in which, though the King "is the nominal prosecutor, yet it is at the "relation of some private person or com- "mon informer; and they are filed by the "King's coroner and attorney in the court "of King's bench, usually called the master "of the crown-office, who is for this pur- "pose the standing officer of the public. "The objects of the king's own prosecu- "tions, filed *ex officio* by his own attorney "general, are properly such enormous "misdemeanors, as peculiarly tend to dis- "turb or endanger his government, or to "molest or affront him in the regular dis- "charge of his royal functions. For of- "fences so high and dangerous, in the pu- "nishment or prevention of which a mo- "ment's delay would be fatal, the law has "given to the crown the power of an im- "mediate prosecution, without waiting for "any previous application to any other "tribunal:"—Certainly, Sir, this definition of Mr. Justice Blackstone does not correspond with the dilatory manner in which these Informations have been prosecuted; and upon this, it is, that I would ground the uselessness and illegality of the power. Is the evil such as to require an instantaneous remedy? What is there in it that requires the sudden effort of the state to suppress, or if a libel be this ruinous thing, why does the Attorney General put off its trial for six or eight months? Out of the whole 42 Informations filed within the last three years only 16 have been brought to sentence. Two of the accused have been acquitted, two are still unsentenced, twelve have been entirely passed over, and ten remain still to be brought on. Perhaps these ten are to be forgiven like the rest, and that, of course, will be solely attributed to the humane disposition of the Attorney General (Hear, and a laugh!) But, Sir, is it no punishment to have such a prosecution depending over a man's head? Is there nothing in the expence and the perplexity and the harrassed mind and the doubtful spirit, of the unfortunate person who is thus threatened by the Attorney General as the victim of that species of prosecution, which according to Blackstone, ought only to be had recourse to in cases that are of vital importance to the state? The seventy informations previous to the year 1791 produced fifty convictions: the fourteen previous to the year 1807 produced six convictions: but in the last three years, the House will look at the number which have been convicted, and judge of the influence which is given by them to the Attorney General. There are certain statutes directed distinctly to put an end to all vexatious proceedings, but permitting the proceeding by the Attorney General. And this implies, that his proceedings ought not to be a nature which the law could call vexatious. But is not his present power most productive of vexation? Mr. Justice Blackstone says, that compounding a prosecution is a misdemeanour. But while a right honourable gentleman, the present Chancellor of the Exchequer; held the situation of Attorney General, a public writer, Mr. Peltier, was tried and convicted for a libel upon Buonaparté, and on the breaking out of the war, that person's offence was passed over; he was never

brought up for judgment; and since that time he has never ceased to be a zealous writer on the side of government. I beg to be understood as not saying that he ought to have been sentenced, or that he ought to have been proceeded against at all. But certainly in this case, there was an instance of compounding a prosecution. And, Sir, it will be found that those who have suffered from the severity of this power, have been persons who have written against that administration of which the learned gentleman himself forms a part. The power has been used for influence, and has not been directed against those who take the part of administration, although it is very evident that they have as few restraints from a feeling of decency and propriety as the writers on the opposite side. Upon what principle of justice, Sir, should the vigilance of the Attorney General be only directed against one party? The learned gentleman, on coming into office, found an information by his predecessor against the proprietor of the Morning Post for a publication tending to create a mutiny among the troops that were then embarking for foreign service. This, if any thing could be, appeared to be a case that called for the vigilance of the Attorney General, as the mischief might have been instantaneous and most serious. But notwithstanding this the learned gentleman opposite entered a Noli Prosequi on the prosecution, and gave as his reason, what was probably a sufficient one, that the printer had given up his author. Not, Sir, that I am by any means disposed to complain of this lenity: but why has it not been followed in other cases? And why did not the Attorney General uniformly act upon the same principle? The libel in the Morning Post appeared first in that paper, and was so far its original production. But although Mr. Cobbett on his trial, declared himself the sole author and proprietor of his paper, and declared the printer and publishers, as, in a certain sense, merely his servants, that declaration did not avail them, and they were all punished together. In the case of The Statesman, a paper which has attracted notice by its opposition to Ministers, the Libel which had the author's name to it, was copied from a Manchester paper, and yet Mr. Lovell, the proprietor of the Statesman, has been found guilty and sent to prison; and no proceedings, I believe, have been commenced against the Author, or against the Editors of the Manchester paper.—Sir, there are cases without end upon this subject. The Messrs. Hunts, the proprietors of the Examiner, have been acquitted in Westminster, on the very same Libel for which Mr. Drakard has been found guilty at Lincoln. There may have been the difference of a few words in the two Libels, but I am sure the learned gentleman will not descend to the chicanery of drawing any distinction between them. At Lincoln, Mr. Drakard has been prosecuted for endeavouring to excite mutiny among the soldiers, while the proprietor of a London paper, the Courier, is permitted to go unpunished, after having asserted the soldiery are, every man of them, out of the pale of the British Constitution! (Hear! hear!) Of this partiality it is, Sir, that I complain. At the time that discussions were going on in this House, many Informations were filed against different individuals, which were afterwards withdrawn. As to the matters which those publications contained, it was then, and still continues to be, my opinion, that they were fully proved in evidence at the bar of this House. The Attorney General, however, has thought proper to abstain from the further prosecution of those Libels, and yet the individuals against whom he had filed those Informations were put to great hardships and serious expence, and had no means by which they might obtain redress. When the Attorney General first thought proper to file those Informations, it was on the ground that the holding up the Duke of York to contempt was lowering the respect due to the royal family, and a great offence against the state. The Duke of York, however, at that time supported the politics of the Learned Gentleman and his friends. But though at one period there was so much respect shewn for those royal personages, it seemed to be no longer thought of, the moment they ceased to espouse the politics of the Learned Gentleman and his friends. In proof of this, Sir, I shall take the liberty to read from a liberty from a ministerial paper called The Courier, some observations made on the 31st of December last upon all the male branches of the royal family, in an article which the writer is pleased to designate by the term of "The College of Princes:" After commenting on this College, they say; "This is a new class, "a new estate starting up to assert a right "of giving an opinion on any great mea-

"sure in the contemplation of govern-
"ment. The College of Princes! Such
"a college existed in the Germanic Con-
"stitution, lately laid low; but, now, for
"the first time, is heard of in the armies
"of Great Britain. **** They must know,
"that as Princes, they were nothing but
"great babies, with royal corals and
"bells, just learning to walk in the paths
"of the state; and that by making them
"English noblemen, with seats in Parlia-
"ment, the King breeched them into po-
"litical manhood. As Prince Ernest and
"Prince Adolphus, they are nothing more
"than great boys, hardly regarded by the
"public, but without power or weight in
"the community—pretty creatures for a
"Dutchess to have dancing at her ball,
"but of no influence in the Government.
"To give them this influence they were
"made Peers of Parliament. ****** As
"English noblemen of the highest rank,
"they command respect **** as Princes
"they sink back to the character of
"great looby boys with toys and rattles.
"What evil genius has persuaded them
"to drop their parliamentary for their
"princely character? To take a step
"which, as they know it would be disre-
"garded, must expose their impotence
"and excite derision? Let them act in
"Parliament, but let them never be heard
"again in their princely collective capa-
"city, if they do not wish to become
"obnoxious. The history of the class of
"the French Princes is not forgotten."—
Now, Sir, I am not complaining that these things are not proceeded against, but I do complain of the partiality which prosecutes for every thing that may be said against the political friends of the minister of the day, but passes over the grossest and most indecent observations which can possibly be made against the highest persons in the community, unless those persons happen to coincide in political opinion with the Government for the time being. The whole of the article I have just read to the House, is so grossly absurd, indecent and abominable, that I do not blame the Attorney General for not prosecuting the Author of it. But I do, and I must blame him for not shewing something like impartiality in his selection of those libels which ought to be proceeded against. I can also state, although it is not now a new case, that it appeared that in the year 1788, libels against two of the royal Dukes who then opposed ministers were actually sent to the newspapers for insertion from the Treasury, and the publisher imprisoned for it. What can be said of the hardship of that case where two individuals have been sent to a distant prison for three years for a libel upon a jury, while a ministerial paper (The Courier) may abuse with impunity that Jury who thought it their duty to acquit Messrs. Hunt?—Upon the whole, Sir, it appears, that the real rule which guides these prosecutions is this: that the Courier and the other papers which support the Ministers of the day may say whatever they please without the fear of prosecution; whereas the Examiner, The Independent Whig, The Statesman, and papers that take the contrary line, are sure to be prosecuted for expressions that were not so strong. In directing these observations to the Attorney-General, I have acted merely from the consideration, that he is the Officer properly responsible. I do not know whether he has acted *ex mero motu*, or whether he has acted from the opinions of others. It is pretty evident, however, that the gentlemen with whom he is in the habit of acting are no great friends to the Liberty of the Press. The present First Lord of the Admiralty, (Mr. Yorke) found out, in the course of the last session, that the Press was intolerably licentious, and complained to this House of a placard reflecting upon him. In consequence of this complaint, the individual against whom it was brought (Mr. Gale Jones) suffered a confinement in Newgate for several months. When the right hon. gentleman brought the complaint forward, he stated that he felt nothing personal on the subject, but had been actuated solely by his regard for the credit and dignity of the House. In the first instance, I gave the right hon. gentleman credit for the assertion; but I am free to confess, that since that time my belief has been greatly shaken. And the circumstance which led to that disbelief on my part, was, that those who felt so keenly the regard that was due to the credit and dignity of the House in one instance, have not felt it incumbent upon them to take the same steps to assert its dignity; not only when individuals, but when large bodies of the members have been abused in the grossest and most indecent manner by those papers who support the cause of the present Ministers. The Morning Post, in its observations on the conduct of a Minority in opposing an adjournment, (in which opposition I believe it will now be confessed that they were right) abused in the

grossest manner all the members who voted in that minority. It is as follows: "With very few exceptions, there was "displayed in both Houses, on this occa- "sion, a most creditable and becoming "sympathy, and the conduct of Lord "Moira and Mr. Sheridan, who on all oc- "casions of real national importance are "ever actively to be found at their post, "is entitled to our best commendations. "In the House of Lords, notwithstanding "some observations from Lords Grenville "and Grey, to the justice or necessity of "which we can by no means subscribe, "the question of adjournment was carried "as we have already observed, *nemine dis-* "*sentiente;* nor would there have been any "division in the Commons, where the Op- "position were unwilling to expose the "weakness of their numbers, had not Sir "Francis Burdett, after some reprehensi- "ble and insidious insinuations, relative to "the exercise of the Executive Power, "entrapped Mr. Whitbread and some "others, who to hide a still greater shame, "and wear the semblance of consistency, "found themselves compelled to vote with "the mischievous Baronet. We are not, "however, displeased at the *patriotic* ex- "pedient to which the *worthy* Sir Francis "has thus had recourse, as it serves to "shew how contemptible are the numbers "of those whose nature is debased by the "vile views of faction, and whose unmanly "feelings and ungenerous hearts forbid as "it were their sympathy, in a case, which "to the everlasting honour of the country "be it related, so deeply interests the best "feelings, and fills with keen solicitude "the fond bosoms of a people, who in "duly appreciating his virtues, prove "themselves deserving of the best Mo- "narch that ever adorned a Throne."— Such language as this, Sir, is endured in the Morning Post, because that paper is in the habit of lending its support to Ministers, and no one of those members who, upon other occasions, have discovered such a lively regard for the credit and dignity of the House, considered this as a case deserving of their notice. For my own part, Sir, I do not feel at all hurt by such expressions of the Morning Post. Of me and of my friends, that paper is at all times at liberty to speak in whatever way it pleases. All I ask is, that the Attorney General and those gentlemen who are so tremblingly alive to the heinous nature of libels in some instances, will practice something like impartiality in their selection. If they are actuated by the purest of motives; if their object in the prosecution of libels is solely their regard for the state, a respect for public decency and the preservation of *bonos mores*, how happens it, Sir, that these considerations never affect them but when the person offending differs in politics from the Minister of the day?—I fear, Sir, I have already trespassed too long upon the indulgence of the House. I hope I have said enough to convince the House of the exorbitancy of the power exercised by the Attorney General. I call for the production of the Papers upon these three distinct grounds: 1st, That even if the law had not been altered, the state of things being altered, the Privilege ought to be investigated: 2ndly, That the law having been altered, inquiry is thereby rendered more necessary, and particularly as the alteration has been introduced by the Attorney General himself: 3dly, That the House may examine whether what I have asserted be true; namely, that the proceeding by Information has been exercised vexatiously and partially. I shall now conclude, Sir, with moving, "That there "be laid before this House, an Account "of all Informations, filed *ex-officio* by "the Attorney General, from the 1st of "January 1801, to the present time; "together with all the proceedings had "thereon, specifying the dates when such "proceedings took place."

The Attorney General then rose, and said, that it was evident that the object of the motion was not to question the right which a person holding his situation had to file such informations, but to insinuate, or rather directly to state, that this power had been grossly abused in his hands. If the power he had been entrusted with had been made an instrument of oppression, he was deeply responsible for it. As this charge had been made in pretty direct terms, he trusted the House would indulge him, if he should find himself obliged at some length to repel those charges. He trusted the Noble Lord would do him the justice to allow, that there was no impediment whatever thrown in the way of his motion. He had access, as he had an undoubted right to have, to all the records which could be serviceable to him; and the persons in whose custody they were placed, had positive directions to give him every assistance they could, by pointing out to him the particular parts of the

records to which his enquiries were directed. The Noble Lord had stated truly the number of informations which had been filed within the last three years. He had, however, after this statement, proceeded to state his suspicions that this power had been improperly exercised, and had stated several instances to confirm this suspicion. Many of the topics touched upon by the Noble Lord appeared to him to have no sort of bearing upon the real question, which was not whether there was any thing in the law upon the subject which required correction, but in what manner he (the Attorney-General) had executed the trust reposed in him. As to the hardships which different individuals might suffer in consequence of judgments pronounced against them, this was a matter for which he was not responsible; and if the Noble Lord thought that any individual case was proper to bring before the consideration of Parliament, there was nothing to prevent him from so doing. He believed however, that there were many things which he had stated as hardships, in which he would not be borne out in an inquiry. The first insinuation which appeared to be levied personally at him, was the mention of the influence of the Crown. Now he would defy the Noble Lord to adduce a single instance where that influence had any weight on his conduct in this respect. He believed that there were no prosecutions more leniently carried on than prosecutions by informations; and he believed that no person in his situation could have boldness, or nerve, or wickedness enough to deprive a defendant of every fair advantage. Was there, in fact, any prosecutor in the kingdom who was so narrowly watched as an Attorney-General? Was there ever wanting abilities or zeal to detect every error he could fall into; and was not he even deprived of the ordinary excuse of human infirmity for any thing he should do that was wrong?—The Noble Lord had thrown it out, that an Attorney-General might be swayed by the fees of office in filing informations. Now, as the Noble Lord declared that he did not mean to apply this observation to him, he was relieved from the necessity of repelling it personally, or declaring that the paltry, dirty fees of office had no influence on his conduct in this respect. If he was actuated by the sordid passion of pocketing a little pelf, the amount of the fees would really be too small to induce him, or any person in his situation, from acting under that consideration. The fees of an Attorney-General on filing an information were either 13*s.* 4*d.* or 6*s.* 8*d.* he could not recollect which. Now he could not be at a loss to know what the Noble Lord was alluding to in those observations. The very terms which he made use of shewed clearly what it was he meant. It was because at the trial of Mr. Cobbett, he had imputed to him that the profits of his paper had or might have an influence on his writings; that therefore the Noble Lord had thought it fair to impute to him similar motives. He could not believe, however, that any Nobleman, on taking time to recollect himself, or that any gentleman in that House who was possessed of any liberal feeling, could think that the cases were similar, or that with any kind of liberality or fairness they could be placed together. The Noble Lord also stated it as a great hardship, that no time run against the bringing such prosecutions, and that the person remained always answerable. He believed that every Gentlemen who heard that statement had supposed that there were hard cases of individuals, oppressed in this manner; without such a supposition, his statement would be absolutely unintelligible; and yet he could assure the House that no instances of that kind existed. He believed no instance could be stated of any case in which he had filed an information, in which a single term had elapsed from the publication of the libel to the information. That always followed, as closely as possible, the discovery of the offence. In the different instances the Noble Lord had adduced of hardships to which defendants were exposed, it was nothing to the question to talk of hardships which the law imposed: the Noble Lord should have pointed out hardships which proceeded from him as Attorney General. When he stated that the defendant had not the power of praying a tales, he should have recollected that in every private prosecution the prosecutor might, at his pleasure, withdraw the record. In his objections to special juries, the noble lord spoke of them as appointed by an officer of the Crown, and said that they had an interest in serving on those juries, and therefore would probably not conduct themselves so as to displease this officer of the crown who appointed them. As to this officer of the Crown, he must state that he had his place for life, and was in this respect as independent as the Judges. He knew him

to be a man of high honour and integrity, and utterly incapable of abusing his trust in the manner which appeared to be insinuated. The special juries were not selected by this officer. It was the duty of the constables of the different parishes to return lists of freeholders, and it was from the freeholders book that the special juries were chosen. The manner, however, that they were taken was this; The officer opened the book where he pleased, and took the first 48 names that occurred. Each party had a right to strike off 12, and from the remainder the jury was formed. He was convinced that nothing could be more impartial than the way the special juries were selected.—The Noble Lord had considered some of the sentences which had been pronounced by the Learned Judges as severe in the extreme, and had referred to the authority of Judge Holt, but that Learned Constitutional Judge had in his time complained of the licentiousness of libellers, and certainly the punishments for that offence were as severe in the best times of the law as they are at present. As to the case of White and Hart, it was not for one libel that they had been sentenced for two years, it was for two libels of a very gross nature. He had said, that it would be mockery for persons confined by severe sentences to bring writs of error, which might perhaps not be determined for many years. He had forgotten, however, to state, that those two men, Hart and White, had actually brought their writ of error, and that in consequence of the nature of it, it was attended to in the House of Lords before any other business of a similar nature. The Noble Lord had also stated the hardships of the subject to be much aggravated by the bill which he had brought in, and that this bill had given him (the Attorney-general) the power of holding to bail any man he pleased. This statement was utterly incorrect. The law gave him no such power, but vested that power in the Judges of the land. The only case in which this had been acted upon, was in the case of a man, who, after an information filed against him, thought proper to republish the same work. Now, this case being stated to Justice Le Blanc, that learned Judge thought it was a case in which the defendant should be held to bail. When it was stated, that he had filed 42 informations, it should be alsostated, that it was for 18 libels. When it was considered, that there were near 200 newspapers disseminated every week, it would not seem extraordinary, that eighteen libels should have been thought worthy of prosecution. Out of those eighteen cases, in eleven there were convictions, or judgment went by default. There was one acquittal, and one withdrawn in consequence of that acquittal. In three cases he had dropped the prosecutions on satisfactory apologies being made. As to the libels in the case of the Duke of York, he believed there was no one who recollected the flame which then prevailed in the public mind that would blame him for withdrawing those prosecutions. He had withdrawn one information against the Proprietors of "The Whig," as he did not wish to add to their present term of imprisonment. As to the libel in the Morning Post, the case was this: proceedings had been instituted at the complaint of the Transport Board, for a libel upon them. The author's name was given up. It was Captain Roach, who had since served his country gallantly abroad. He was then out of the country, but on his return he waited on the Transport Board, and softened them so much that they did not wish to press the prosecution. Now the case of the author of the libel on the Commissioners of the Income Tax in Lancashire was very different. Mr. Lovell had inserted the libel in his paper with comments still more offensive than the original libel, and on that account he prosecuted him. He also prosecuted the two country papers in which it was originally published, but as he found the evidence of those two publishers was necessary to convict the author, a Mr. Collyer, he, at the desire of the Commissioners who were libelled, consented to suspend the proceedings against them, and the prosecution of Collyer is now going on. If the power vested in him had not been abused, he felt confident that the House would acquit him of the imputations which the motion conveyed.

Lord Folkestone rose to reply, and spoke as follows: Sir, after having already trespassed so long upon the attention of the House, it would be unpardonable in me to consume much more of its time; but I cannot refrain from making a few short observations upon what has been dropped in the course of the present discussion. My right hon. friend (Mr. Elliot), and the hon. and learned gentleman (Mr. Stephen) have stated, that I

have produced no instances of an improper use of the power of the Attorney General to justify this motion. To this I reply, that I have laid different grounds: first, the general ground of the hardship under which this power lays all the subjects of the realm: secondly, the improper use of it, in the case both of prosecutions improperly commenced, and of partiality. And for the truth of this, I need only refer my right hon. friend and the hon. and learned gentleman to the fact, that the Attorney General has, in no one case, denied the hardship of which I complained, and to the statement which I made in the outset, confirmed as that statement has been by the Attorney General himself: namely, that of the forty-two prosecutions commenced in three years, nearly one half have not been proceeded in. Now, Sir, either the prosecutions were justifiable, or they were not. If they were justifiable, then why were they dropped? Did the Attorney General assume to himself the right to decide that sufficient punishment had been inflicted? and the right to inflict it on whomsoever he chose? The Attorney General tells us that he has received apologies. Sir, the Attorney General is a public servant, acting for the benefit of the public; and is he to assume to himself the right of stopping proceedings commenced with that view, upon an apology made to himself? Besides, what apology can be sufficient in the case of such high misdemeanors as those to which alone, according to Blackstone, these *Ex-officio* Informations are applicable? If the prosecutions were not justifiable, then at once here is a cause for inquiry and for granting the Papers I have moved for; then, all the persons affected by them have been unjustly subjected to expence and trouble. But the hon. and learned gentleman (Mr. Stephen) says, that the increase of publications justifies the increase of prosecutions. But, Sir, is that the real state of the case? In the six years ending 1806, the number of prosecutions is at the rate of two in each year. In 1808, 1809, and 1810, at the rate of *fourteen*. Have, then, these publications increased in the rate of fourteen to two? Certainly not.—Of the rest of the speech of the hon. and learned gentleman, I have only to say, that he has not alluded to a single argument of mine, which he has not misrepresented. But, in truth, the hon. and learned gentleman applied scarcely any one sentence of his speech to the arguments that have been urged, or to the case now before the House. He came down with a bundle of old papers, prepared evidently, not for the purpose of refuting arguments that might be used in behalf of the motion; but with the view of attacking the hon. baronet (Sir F. Burdett). And how, Sir, does the hon. and learned gentleman attack him? Why, for not prosecuting as a Libel, that which purports to be an account of his Speech to his Constituents. And what are the grievous parts of this Libel?—that the hon. baronet has been represented to have said, that "no Govern-"ment can stand without the affections "of the People," and that he hoped "the "People would never again be deprived "of the right of petitioning." Sir, is it libellous to say this? Are these libels, which the hon. baronet is called upon (and the hon. and learned gentleman does call upon him) to prosecute? If these are Libels, then I beg to be comprehended in the guilt of a libeller. I am guilty of being such a libeller, and I beg to be comprehended in the hon. and learned Gentleman's censure.—But, the hon. and learned Gentleman tells us, that the spirit of the people is libellous. "There is a spirit gone forth," says he, "amongst the people, of so dangerous a "sort, that the Attorney General is called "upon to check it by these prosecutions." Is it so? Why, then, Sir, let the causes of that spirit be inquired into. Let us correct the abuses and the grievances that have given it birth. Let us institute these proceedings, in order that we may retrieve the affections of the people, without which, notwithstanding the censure of the hon. and learned Gentleman, I shall still assert, that "the government cannot stand."—With regard, Sir, to the Speech of the Attorney General, it is to be remarked, that he really has rebutted neither the allegation of general grievance under the law, as it stands and is administered; nor any one of the cases alledged of oppression and partiality. The Attorney General has passed an eulogium on Special Juries; but his hon. and learned friend behind him, has not said one word in answer to, or in contradiction of, the facts alledged on that subject by the honourable baronet. This question, however, of Special Juries shall be made, on a future day, the object of a specific motion; and therefore nothing more need now be said upon it.—The Attorney General has plumed

himself upon his civility to me in ordering all the records and offices to be thrown open to my inspection. I really did not know that I was so much indebted to him. He has given me credit for great industry and care in rummaging into the antient records on the subject. I am afraid, Sir, that I am not entitled to this commendation; and if it was part of my duty to devote myself to these researches, and to read all these libels before I brought the question forward, I am afraid I must plead guilty to the charge of having come before the House unprepared.—Sir, the Attorney General is very angry at the mention of the word Fees, and is extremely indignant that it can be entertained as a possible motive for any Attorney General, that he is to receive Fees on the filing of these Informations. Sir, I cast no such imputation upon the learned Gentleman: but I wish he had been equally abstemious in another case, where the imputation was equally undeserved, and when it was used for the purpose of aggravating the punishment of an offence of a quite different nature, and with which it had nothing to do. The learned Gentleman knows to what I allude, and has mentioned it in the course of his speech. I am glad he has done so; for I am glad to have an opportunity to state that that imputation was quite unfounded and totally unjustifiable. Sir, I have known Mr. Cobbett, the person against whom the learned Gentleman flung out that accusation, for many years. I have heard of the eminent services he performed for his native country when a public writer in America. Honourable testimony has heretofore been borne to those services in this House. I have known him ever since his return, and have never ceased to admire his public writings, or to esteem his private character. I have more than ever had occasion to do so, since he has been suffering the punishment which he is now undergoing, in consequence of the prosecution of the Attorney General, and I am extremely happy to have had an opportunity of professing publicly the high esteem which I bear him, and the value I set upon his writings, and the great services he thereby does the country.—The Attorney General has told the House, that I complained of state prosecutions, but that I gave no instance of any such. It is true, that I complained of the possibility as the law stands, of keeping these prosecutions hanging over the heads of individuals for an indefinite period; but I did not complain that this had ever been done. The Attorney General states a case where he entered a *noli prosequi* to relieve the mind of the person against whom a prosecution had been commenced. I am bound to acknowledge the truth of that statement, and to bear testimony to the kindness with which the Attorney General acted in that case—but why is this the only *noli prosequi* which he has entered? Why, in other cases where prosecutions have been dropped—or at least not proceeded on—why have they not been put a final stop to in this way? Why have they been left in such a state, that at any future period they may be taken up again either by the present or any future Attorney General? Why were not the minds of these other individuals equally set at rest? Sir, I complain of this: these people are still under the lash. It is not in full operation; but it is kept suspended over them, and may at any future period be again brought into operation.—And now, Sir, with respect to that case, which the Attorney General states so triumphantly, of the only person who has been committed under the 48th of the King. The Attorney General says that I misrepresented that Act, when I said that it gave him the power to hold all the King's subjects to bail. I surely could not be understood to mean that it empowered the Attorney General himself to take bail, or to commit. I have read the Act and I know it means no such thing; but it does that which is tantamount to it. It empowers a Judge—(I am not quite sure whether or no it is imperative on the Judge)—it empowers him, however, at all events, to hold to bail or commit any person against whom the Attorney General files his Information. Is this nothing? The Attorney General may file his Information against whom he pleases, and on *Affidavit* of the filing of the Information, the Judge may hold to bail or commit. Then, I say, that this gives the Attorney General the power of having any person whom he pleases, held to bail.—But this Act, it seems, has only once been brought into operation. Has the Act done no good? it ought, then, to be repealed. Is it useless? it ought to be repealed. It has been useful in one case: and that case the Attorney General states triumphantly. He says it is the case of one O'Gorman, who after an Information filed against him for a libel, republished the Libel, and was then brought under the operation of this

Act, and being unable to find bail was committed. I say that this case, instead of being a triumphant one for the Attorney General, is a case of most gross and flagrant abuse. In the first place—a Libel!—by what right does the Attorney General call the publication in question a Libel? Has it ever been so proved? Has the author ever been tried and convicted of being a Libeller? No. The Attorney General, for reasons which he has stated, has never brought this work to the test of a trial. It is, therefore, no Libel in law; and he has no right so to call it?—Then, as to the republication of this work, which the Attorney General is pleased to call a libel, I understand that the fact is not true. Previous to the filing of the first Information, a second Edition of the Work was sent to the press. The putting the Information on the file did not stop the work of the press: it went on, and the second edition was printed and sent home to this man's house: and this is the republication for which the second Information was filed: Well, but admitting the work itself to have been as heinous a libel, as abominable a publication as ever came from the press. What then? Does that render the author justly amenable to this Act? Was this act passed to punish Libels? or to enable Attorney Generals to *punish* those whom they chose to pronounce libellers?—No: this act was passed to prevent culprits running away from justice: to prevent their escape. And I want to know, if this man was more likely to run away from the second Information than from the first? Whether the re-publication, therefore, gave any good ground for bringing him under the operation of this Act, or not, I say, that the object and purposes of this Act have been herein grossly perverted. I say, that this Act, passed for one purpose, has been used for another—has been used arbitrarily by the Attorney General for the purpose of punishing a man, who has never been convicted of any crime; but who had incurred the displeasure of the Attorney General.—On the whole, Sir, I assert, that none of the grounds that I before alleged for this motion, have been removed. The hardships which I enumerated as attending every person who became the object of this sort of prosecution have not been disproved or denied, in any one instance. And as to the particular grounds, they are equally uncontradicted. The fact asserted by me, and confirmed by the Attorney General, of prosecutions being dropped, is proof of their being improperly commenced: and as to the charge of partiality, in prosecuting some and withholding all restraint from others, none of the gentlemen have touched on the subject. I beg leave here to repeat, that this lenity I do not complain of, but what I complain of is this: that while this lenity is extended to some, great severity is meted out to others. The ground, therefore, on which I stand, is the general hardship, even as the law stood before the alteration—the increased severity of the law in consequence of the 48th of the King—and the abuse and partiality with which the Attorney General has exercised his privilege. These, Sir, are the grounds on which I rely, and upon which I shall take the sense of the House.

[At the close of Lord Folkestone's Reply, a division took place, when there appeared, for Lord Folkestone's motion 38, including Tellers; and against it, 121, including Tellers.——The speakers *for* the motion were Lord Folkestone, Sir Francis Burdett, Sir Samuel Romilly, and Mr. P. Moore.——Those who spoke against it were, The Attorney General himself, Mr. Stephen (Wilberforce's brother-in-law) now a Master in Chancery, Mr. William Elliot, and a person of the name of Lockart, who is, I believe, a lawyer.——The following are the names of those members who voted for Lord Folkestone's motion:]

List of the Minority.

Abercromby, hon. J.	Martin, Henry
Adams, Charles	Miller, sir Thomas
Adair, Robert	Moore, Peter
Aubrey, sir John	Newport, sir John
Byng, George	North, Dudley
Brand, hon. Thomas	Ord, William
Cavendish, William	Osborne, lord F. G.
Combe, Harvey C.	Ossulston, lord
Creevey, Thomas	Parnell, Henry
Cuthbert, J. R.	Romilly, sir Samuel
Ferguson, General	Smith, William
Guise, sir William	Sharp, Richard
Hibbert, George	Taylor, M. A.
Howorth, Humphrey	Tracey, Hanbury
Hutchinson, hon. C. H.	Western, C. C.
Latouche, Robert	Whitbread, Samuel
Lefevre, James Shaw	
Lemon, sir William	TELLERS.
Longman, George	Folkestone, viscount
Maddocks, W. A.	Burdett, sir Francis

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